THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.14445 OF 2007

ORAL ORDER:

The petitioner, a Private Limited Company, had availed financial assistance from the Central Bank of India, Solapur, by depositing the title deeds of immovable property as security. Admittedly, the petitioner committed default in repayment of the loan amount and, consequently, the respondents having invoked the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Act"), issued a demand notice dated 5.8.2002 under Section 13(2) of the Act calling upon the petitioner to pay the amounts due within 60 days, failing which, the creditor would be entitled to exercise the rights under sub-section (4) of Section 13 of the Act. Pursuant thereto, though it appears that the petitioner deposited a sum of Rs.15.00 lakhs, no further payments were made. Consequently, the respondents issued possession notice under Section 13 (4) of the Act on 24.11.2003. Aggrieved by the same the petitioner filed W.P.No.201 of 2004. Though, initially, this Court granted interim stay of all further proceedings, ultimately, the said writ petition was disposed of along with a batch of similar writ petitions, granting leave and liberty to the petitioner to work out the remedy under Section 17 of the Act. However, the petitioner did not avail the said remedy and even the possession of the secured asset was not handed over. In the circumstances, the respondent-Bank was constrained to file an application before the Chief Metropolitan Magistrate, Vijayawada, under Section 14 of the Act, in which an order was passed on 24.6.2006 appointing an Advocate-Commissioner for taking possession of the secured asset from the petitioner and hand over the same to the respondent-Bank. Challenging the said order, the petitioner filed W.P.No.14332 of 2006. By order, dated 14.7.2006, this Court granted interim stay of dispossession, subject to the condition

that the petitioner deposits a sum of Rs.20.00 lakhs within two weeks. The petitioner could not comply with the said conditional order and consequently possession of the secured asset was taken from the petitioner. Threafter, the petitioner filed S.A.No.5 of 2007 before the Debts Recovery Tribunal, Pune under Section 17 of the Act.

While the said proceedings are pending, the respondent-Bank had issued the impugned sale notice dated 6.6.2007 proposing to sell the secured asset on 9.7.2007. The said sale notice is challenged in this writ petition contending *inter alia* that since the application made by the petitioner under Section 17 of the Act is still pending before the Tribunal having jurisdiction, the respondents are not justified in proposing to sell the secured asset. It is also contended that since the request made by the petitioner for One Time Settlement is also pending consideration, pursuant to which the petitioner has deposited a total sum of Rs.20.00 lakhs between 14.2.2007 and 27.2.2007, the impugned sale notice is unwarranted.

I do not find substance in any of the contentions raised by the petitioner. As could be seen from the material on record, though the petitioner had opted for One Time Settlement long back in the year 2003, it appears that the same is not materialized and no order has been passed by the respondent-Bank accepting the petitioner's offer. In the meanwhile, the proceedings taken by the respondent-Bank under Section 13(4) of the Act have become final and possession of the secured asset has already been taken. Though the petitioner moved an application before the Debts Recovery Tribunal, Pune, no order has been passed in his favoaur restraining the respondents from proceeding against the secured asset. On the other hand, an order was passed permitting the respondents to proceed with the tenders. At any rate, since the petitioner has already availed the alternative remedy under Section 17 of the Act and the same is pending before the Tribunal having jurisdiction, the petitioner cannot be allowed to maintain this writ petition as a parallel remedy.

Accordingly, the writ petition is dismissed. No costs.

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(G. ROHINI, J.)

6th July, 2007.
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THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.14445 OF 2007

6th July, 2007.

Between:

M/s Rasayan Drugs Pvt. Ltd.,
Plot No.A-22/2, MIDC, Chincholi
Industrial Area, Solapur,
State of Maharashtra, represented by its
Managing Director – Y. Nehru. ..Petitioner.

And

The Union of India, represented by its
Secretary, Ministry of Finance,
New Delhi-1 and and others. .. Respondents.